



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

SETTE *et al.*

Appl. No. 09/894,018

Filed: June 27, 2001

For: **Method and System for
Optimizing Minigenes and
Peptides Encoded Thereby**

Confirmation No. 7107

Art Unit: 1631

Examiner: Marschel, A.H.

Atty. Docket: 2060.0320003/EKS/PAC

Reply To Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated **September 9, 2003**, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elects to prosecute the invention of Group II, represented by claims 27-37. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse.

With respect to the Examiner's division of the claims into six groups and the reasons stated therefor, Applicants respectfully traverse. Groups I and II are related as between a method, computer system, data storage device, or apparatus for designing a multi-epitope construct via epitope pairs and a combination of amino acid insertions (Group I), and a method for designing a multi-epitope construct comprising CTL epitope nucleic acids which are sorted with the introduction of flanking amino acid residues using the above-described computer system (Group II).

Even assuming, *arguendo*, that either of Groups I or II represent distinct or independent inventions, Applicants submit that to search and examine the subject matter of

the Groups together would not be a serious burden on the Examiner. For example, publications which disclose the methods for designing a multi-epitope construct using a computer system (Group II) also disclose the computer system itself (Group I). Applicants assertion is supported by the fact that the claims of Groups I and II share an identical classification. In addition, the insertion of amino acids to minimize junctional epitopes is a concept common to both groups. Therefore, Applicants respectfully request that the claims of Group I and Group II be rejoined, as searching the subject matter of the Groups together would not be a serious burden on the Examiner.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

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